

(To be used in support of a FOIA (b)(1) exemption)

EXTRACT FROM EXECUTIVE ORDER 12356

Sec. 1.3. Classification Categories.

(a) Information shall be considered for classification if it concerns:

- (1) military plans, weapons, or operations;
- (2) the vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security;
- (3) foreign government information;
- (4) intelligence activities (including special activities), or intelligence sources or methods;
- (5) foreign relations or foreign activities of the United States;
- (6) scientific, technological, or economic matters relating to the national security;
- (7) United States Government programs for safeguarding nuclear materials or facilities;
- (8) cryptology;
- (9) a confidential source; or
- (10) other categories of information that are related to the national security and that require protection against unauthorized disclosure as determined by the President or by agency heads or other officials who have been delegated original classification authority by the President. Any determination made under this subsection shall be reported promptly to the Director of the Information Security Oversight Office.

(b) Information that is determined to concern one or more of the categories in Section 1.3(a) shall be classified when an original classification authority also determines that its unauthorized disclosure, either by itself or in the context of other information, reasonably could be expected to cause damage to the national security.

(c) Unauthorized disclosure of foreign government information, the identity of a confidential foreign source, or intelligence sources or methods is presumed to cause damage to the national security.

(d) Information classified in accordance with Section 1.3 shall not be declassified automatically as a result of any unofficial publication or inadvertent or unauthorized disclosure in the United States or abroad of identical or similar information.

EXPLANATION OF EXEMPTIONS

FREEDOM OF INFORMATION ACT:

- (b)(1) applies to material which is properly classified pursuant to an Executive Order in the interest of national defense or foreign policy (see Exec Order 12356 on reverse);
- (b)(2) applies to information which pertains solely to the internal rules and practices of the Agency;
- (b)(3) applies to information specifically exempted by a statute establishing particular criteria for withholding. NOTE: CIA & NSA have such laws, DIA does not (e.g., CIA Act of 1949). DIA can use (b)(3) when requested by these agencies on information originated by them;
- (b)(4) applies to information such as trade secrets and commercial or financial information obtained from a person on a privileged or confidential basis;
- (b)(5) applies to inter- and intra-agency memoranda which are advisory in nature;
- (b)(6) applies to information release of which would constitute an unwarranted invasion of the personal privacy of other individuals; and
- (b)(7) applies to investigatory records, release of which could (C) constitute an unwarranted invasion of the personal privacy of others, (D) disclose the identity of a confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel.

PRIVACY ACT: A request from an individual for notification as to the existence of, access to, or amendment of records pertaining to that individual.

- (b) applies to information concerning other individuals which may not be released without their written consent;
- (k)(1) applies to information and material properly classified pursuant to an Executive Order in the interest of national defense or foreign policy;
- (k)(3) applies to records maintained in connection with providing protective services to the President and other individuals under 18 U.S.C., Section 3506;
- (k)(5) applies to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, or access to classified information, release of which would disclose a confidential source;
- (k)(6) applies to testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process; and
- (k)(7) applies to evaluation material used to determine potential for promotion in the Military Services, but only to the extent that the disclosure of such material would reveal the identity of a confidential source.